

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
ZACHARY NOBLE,)
)
Defendant.)

4:08CR3022

**MEMORANDUM
AND ORDER**

As I told the lawyers and Mr. Noble today, I cannot accept the binding plea agreement. The plea agreement, tendered under [Federal Rule of Criminal Procedure 11\(c\)\(1\)\(C\)](#), calls for a sentence of 180 months. After reviewing the presentence report, and hearing from the government that the facts recited in the presentence report are generally accurate, the 180 month sentence is substantially less than that probably called for under the advisory Guidelines and it is substantially less than what is probably required by the statutory goals of sentencing. Accordingly,

IT IS ORDERED that:

1. The plea agreement (filing 44) is rejected and defendant's motion for continuance is granted as provided herein.
2. Because I have rejected it, the defendant is advised that I am not required to follow the plea agreement. Therefore, the defendant has the right to withdraw his guilty plea. If the guilty plea is not withdrawn, I may dispose of this case by sentencing the defendant less favorably than the plea agreement contemplated.
3. On or before December 8, 2008, the defendant shall advise the court, through his counsel, whether he withdraws his guilty plea.

4. If the defendant withdraws his guilty plea, this case will be set for trial.
5. If the defendant does not withdraw his guilty plea, the defendant shall file objections to the presentence report no later than December 8, 2008.
6. If the defendant does not withdraw his guilty plea, I will enter an order on sentencing schedule.
7. My chambers shall call this case to my attention on December 9, 2008.
8. In the interests of justice, and in order to accommodate the defendant's request for a continuance and to give him time to consider his options after consulting with his counsel, the time between November 6, 2008 and December 8, 2008 is excluded under the terms of the Speedy Trial Act. *See, e.g.,* [18 U.S.C. § 3161\(h\)\(8\)\(A\)&\(B\)](#).

November 6, 2008.

BY THE COURT:

s/Richard G. Kopf
United States District Judge